

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

GENERAL LAND OFFICE OF THE STATE)
OF TEXAS,)

Plaintiff,)

v.)

UNITED STATES FISH AND WILDLIFE)
SERVICE, et al.)

Defendants.)

No. A-17-CA-00538-SS

JOINT STATUS REPORT AND PROPOSED SCHEDULE

On November 30, 2017, the Court ordered the parties to confer and submit a proposed scheduling order for the Court’s consideration by January 19, 2018, pursuant to Local Rule CV-16(c). Counsel for the General Land Office of the State of Texas and counsel for the United States Fish and Wildlife Service (“Service”), United States Department of the Interior, Ryan Zinke, in his official capacity as Secretary for the United States Department of the Interior, Greg Sheehan, in his official capacity as Principal Deputy Director of the Service, and Amy Lueders, in her official capacity as Southwest Regional Director for the Service (collectively, “Federal Defendants”) have conferred and submit the attached proposed scheduling order.

Because this is a case for review on an administrative record, certain provisions of the proposed order template were inapplicable and some additional deadlines, including a deadline for the production of the administrative record and deadlines for any related motions, were necessary. Accordingly, the parties have amended the proposed order template to reflect the scheduling appropriate for this case. The parties also summarize the proposed schedule below:

1. Proposed Schedule:

- a. Consent to the Magistrate:** Each party shall complete and file the “Notice Concerning Reference to United States Magistrate Judge” on or before January 24, 2018.
- b. Settlement:** In the interest of making every effort to determine if a resolution is possible, Plaintiff shall submit a written offer of settlement to Federal Defendants by February 9, 2018, and Federal Defendants shall respond by February 23, 2018. The parties shall then submit their report on alternative dispute resolution on or before March 2, 2018.
- c. Amendment or Supplementation of the Pleadings:** On or before February 14, 2018, Plaintiff intends to supplement its Second Amended Complaint by attaching exhibits that were filed as attachments to its previous two complaints, ECF Nos. 1 and 33. For this purpose, and this purpose alone, Federal Defendants consent to Plaintiff’s supplementation of its complaint pursuant to Federal Rule of Civil Procedure 15(a)(2).
- d. Production of the Administrative Record:**

 - i. On or before January 31, 2018, Federal Defendants shall serve a copy of the administrative record upon Plaintiff in electronic format;
 - ii. On or before March 9, 2018, Plaintiff shall notify Federal Defendants whether Plaintiff believes the administrative record is complete or requires supplementation with additional materials;
 - iii. On or before March 23, 2018, Federal Defendants shall respond to any notice of deficiency regarding the record, and the parties will attempt to resolve any disputes regarding the contents of the administrative record;

iv. On or before March 30, 2018, the parties shall file a joint status report notifying the Court whether they have reached agreement that the record is complete. If any disputes regarding the contents of the administrative record cannot be resolved, the parties will propose in the joint status report a briefing schedule for the filing of motions to resolve such disputes. Such briefing schedule may include time for a motion by Plaintiff to supplement the proffered administrative record or a motion by Plaintiff to conduct expert discovery, or both, and will provide time for responses to any such motions to be filed by the Federal Defendants and Amici, as well as replies to be filed by the Plaintiff, as appropriate. But if the parties agree by no later than March 30, 2018, that the administrative record is complete, either as originally proffered or as supplemented by the Federal Defendants in response to the Plaintiff's timely request, as the case may be, Federal Defendants shall file the certified administrative record with the Court on or before April 2, 2018.

e. **Tentative Dispositive Motion Briefing Schedule:** The parties agree to the following tentative briefing schedule for cross-motions for summary judgment if the agreed upon certified administrative record is filed by the Federal Defendants on or before April 2, 2018, in accordance with Part 1(d)(iv) above. If motions regarding the contents of the administrative record are filed, as provided in Part 1(d)(iv) above, the parties shall submit a joint status report within 14 days of the Court's disposition of any such motion, proposing a schedule for the filing of the certified administrative record, briefing, and any other deadlines appropriate for resolving this case.

- i. Plaintiff shall file a Motion for Summary Judgment, not to exceed 40 pages, on or before May 1, 2018;
- ii. On or before June 15, 2018, Federal Defendants shall file their combined Response to the Motion for Summary Judgment and Cross-Motion for Summary Judgment, not to exceed 40 pages;
- iii. Amici curiae the Travis Audubon Society, Texas Ornithological Society, Center for Biological Diversity, and Defenders of Wildlife shall file an amicus brief, not to exceed 20 pages, no later than June 22, 2018;
- iv. On or before July 18, 2018, Plaintiff shall file its combined Response to Federal Defendants' Cross-Motion for Summary Judgment and Reply in support of its Motion for Summary Judgment, not to exceed 20 pages;
- v. On or before August 3, 2018, Federal Defendant shall file their Reply in Support of their Cross-Motion for Summary Judgment, not to exceed 10 pages.

Dated: January 19, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Western District of Texas by using the CM/ECF system, which will serve a copy of the same on the counsel of record.

/s/ Theodore Hadzi-Antich
THEODORE HADZI-ANTICH